

ORDERSHEET

CENTRAL GOVT.INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR (MP)

CASE NO.CGIT/LC/EPFA/20/2024

M/s Mission Middle School V/S RPFC, Bilaspur

Date of Order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
15.04.2024	<p>Matter taken up.</p> <p>Present- Shri Vasu Jain Learned counsel for the Appellant. Shri Abhishek Arjaria, Learned counsel for the Respondent.</p> <p>Perused the report of the Registry.</p> <p>The impugned order is of 23.06.2023. The appeal has been filed on 16.04.2024, is Delay has been Condoned by Hon'ble High Court of Chhattisgarh by order dated 07.12.2023 in WPL number 150/2023. Appeal is registered.</p> <p>The learned counsel for appellant presses his I.A and application U/S 7(o).</p> <p>Respondent has filed objections with affidavits which are on record. Heard both the Ld counsels and perused record.</p> <p>Learned counsel has attacked the impugned order mainly on 2 grounds. Firstly, challenging the findings of Respondent authority regarding clubbing of institutions and Secondly, by challenging the finding regarding the liabilities of appellant.</p> <p>As submitted by learned counsel for appellant, in the light of MP Aushadhalaya Shikshan Sansthan Adhinyam 1998 and Rules framed thereunder in 1983 particularly Rule number 8 and submits that in the light of this Rule, the appellant establishment is not covered under the EPFA act 1952as per section 16(1)(B) of the Employees Provident Fund & Miscellaneous Provisions Act1952.</p> <p>He further relies on judgment of Hon'ble High Court of M.P. in the case of RPFC Vs Sanatan Dharm Secondary school 2007 High Court cases 268. in this respect. He also submits that the appellant is not in a position to pre-deposit any amount because it takes nominal fee from students and runs on grant in add by State Government. It has no fund of its own.</p> <p>Respondent has counted this submission with an argument that the Sanatan Dharma case judgment is with respect to Rajasthan Act where as the MP act is different. He has referred to judgment of Hon'ble High Court of M.P. in the case of MP Shikshak Congress Vs RPFC Jabalpur (1999) 1 SCC 396 Para 17 and judgment of Madhya Pradesh High Court in the case of MP Shikshak Congress Vs RPF Jabalpur2014 SCC on line M.P.5336 as well Division Bench order Dated</p>	

27/02/2017 passed in WA No 919/2014b&bWA 99/2016.

Roots and origin of concept of interim/interlocutory order in the Indian context can be raised from the provision of order 39 rule 1,2 and 3 CPC, which are repository powers to grant interim relief or interim protection.

Supreme Court of India has also propounded the some principles in **Colgate Palmolive (India) Ltd. Vs. Hindustan Liver Ltd. AIR 1999 Supreme Court 3105**, by holding and enumerating the broad parameters that should govern the judicial discretion in passing of interim/interlocutory/temporary orders by Indian Courts.

In Para 24 of the said judgment it is held;

“We, however, think it fit to note hereinabove certain specific considerations in the matter of grant of the interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the court, since the issue of grant of injunction, usually, is at the earliest possible stage so far as the time-frame is concerned. The other considerations which ought to weigh with the court hearing the application or petition for the grant of injunction are as below: -

- I. Extent of damages being an adequate remedy.
- II. Protect the plaintiff's interest for violation of his rights through, however, having regard to the injury that may be suffered by the defendants by reason therefore.
- III. The Courts while dealing with the matter ought not to ignore the factum of the strength of one party's case is stronger than the other's.
- IV. No fixed rules or notions ought to be had in the matter of grant of the injunction but on the facts and circumstances of each case the relief being kept flexible.
- V. The issue is to be looked at from the point of view as to whether on the refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties' case.
- VI. Balance of convenience even if there is a serious question or prima facie case in support of the grant.
- VII. Whether the grant or refusal of the injunction will adversely affect the interest of the general public which can or cannot be compensated otherwise.”

After perusal of record in the light of rival arguments, it comes out that any detailed discussion or finding on merits may prejudice the parties but certainly the Appellant appears to have successfully established many arguable points in the appeal. Hence he is held to have successfully established his prima facie case at this stage. Keeping in view the fact and circumstances of the case in hand, the balance of convenience is in favor of granting partial waiver under Section 7(0).

Accordingly the amount under Section 7(O) is partially waived and the appellant is directed to deposit only 40% of the amount under appeal in favor of Registrar CGIT (Payable at Jabalpur) within 30 days from today by way of a Bank Draft within 30 days from the date of order. The recovery shall also remain stayed till appeal on deposit of the amount.

Respondent to file Counter within 04 weeks from today, after serving a copy to the learned counsel of the Appellant. Rejoinder if any, within 02 weeks thereafter.

List the case for arguments on

Presiding Officer



